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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,445	06/30/2003	David Di Huo	29250-000763/US	7132
7590 HARNESS, DICKEY & PIERCE, P.L.C. P.O. Box 8910 Reston, VA 20195			EXAMINER PATEL, AJIT	
		ART UNIT 2616	PAPER NUMBER	
			MAIL DATE 11/28/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/608,445	HUO, DAVID DI	
	Examiner	Art Unit	
	AJIT G. PATEL	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 August 2007.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-17 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____

- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

Art Unit: 2616

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless—

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Lincoln.

Regarding claims 1,13, Lincoln discloses scheduler utilizing dynamic schedule table incorporating the step of adjusting a granularity of the leaky bucket data flow scheme with a granularity scalar parameter, the granularity scalar parameter modifying the leaky bucket data flow control scheme to modify the granularity of information relating to the level of the leaky bucket to control data flow as in claim 1 and modifying a bucket capacity indicator to provide enhanced granularity of information relating to the level of the leaky bucket to enhance the granularity of the leaky bucket data flow control scheme as in claim 13 (lines 6-21, col. 5).

Regarding claim 2, Lincoln discloses the step of adjusting the scalar parameter based upon a user determined scaling value (lines 54-67, col. 17; lines 10-23, col. 9).

Regarding claim 3, Lincoln discloses the limitation "wherein the scalar parameter is within a predetermined range" (lines 54-67, col. 17, lines 10-23, col. 9).

Regarding claim 4, Lincoln discloses the limitation "wherein adjusting is performed dynamically" (lines 54-67, col. 17 imply that the step of adjusting is performed dynamically).

Art Unit: 2616

Regarding claim 5, 14, Lincoln discloses the limitation "wherein the scalar parameter modifies a bucket full ratio" (lines 41-53, col. 17, lines 10-23, col. 9).

Regarding claim 6, Lincoln discloses scheduler utilizing dynamic schedule table incorporating the step of scaling a control parameter of a leaky bucket data flow scheme for adjusting the granularity of information relating to the level of the leaky bucket for controlling data flow, the control parameter modifying a bucket capacity parameter for the leaky bucket data flow control scheme (lines 6-21, col. 5).

Regarding claim 7, Lincoln discloses the limitation "wherein the scaling is performed within a predetermined range" (lines 54-67, col. 17, lines 10-23, col. 9).

Regarding claim 8, Lincoln discloses the limitation "wherein the predetermined range is between an empty bucket level and a maximum bucket level (304,306 of fig. 6; lines 33-48, col. 11).

Regarding claims 9,16, Lincoln discloses the limitation "a user defined scaling value for scaling the control parameter" (lines 54-67, col. 17)

Regarding claim 10, Lincoln discloses the limitation "wherein the bucket capacity parameter is a bucket full ratio for the leaky bucket data flow scheme" (lines 41-53, col. 17, lines 10-23, col. 9).

Regarding claims 11,17, Lincoln discloses the step of dynamically adjusting the granularity based upon scaling of the control parameter (lines 54-67, col. 17; lines 10-23, col. 9).

Regarding claims 12,15, Lincoln discloses the step of varying data flow based upon scaling of the control parameter (lines 6-21, col. 5).

Art Unit: 2616

3. Applicant's arguments filed 8/17/2007 have been fully considered but they are not persuasive. The applicant argued that Lincoln fails to disclose the step of adjusting the granularity of the leaky bucket data flow scheme with a granularity scalar parameter, wherein the granularity scalar parameter modifies the leaky bucket data flow control scheme to modify the granularity of information relating to the level of the leaky bucket to control data flow. Examiner disagreed with the applicant's arguments. In lines 5-21, col. 5 of Lincoln reference implied that the parameters L1 and L2 of the leaky bucket can be adjusted to control the data flow. In lines 55-65, Lincoln also discloses the flow control algorithm.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2616

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to AJIT G. PATEL whose telephone number is 571-272-3140. The examiner can normally be reached on MONDAY- FRIDAY.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn Feild can be reached on 571-272-2092. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AP


Ajit Patel
Primary Examiner